

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110066

Decision No. CIC/SB/A/2015/000399

Dated 21.11.2016

Appellant : ShriHarish Shukla,
47, Ravinder Nagar, Ujjain,
Madhya Pradesh-456 010.

Respondent : Central Public Information Officer,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

Date of Hearing : 21.11.2016

Relevant dates emerging from the appeal:

RTI application filed on : 06.04.2015

CPIO's reply : 13.05.2015

First appeal filed on : 01.06.2015

FAA's order : 22.06.2015

Second appeal filed on : 16.07.2015

ORDER

1. ShriHarsh Shukla filed an application dated 06.04.2015 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Ministry of Home Affairs (MHA) seeking information on five points pertaining to proclamation of 'Emergency' in India.

2. The appellant filed a second appeal dated 16.07.2015 before the Commission on the grounds that he has not been provided information on point no. 3 of the RTI application.

Hearing:

3. The appellant ShriHarsh Shukla attended the hearing through video conferencing. The respondent Shri Niraj Singh, Under Secretary (IS-I, Division), MHA and Shri A.K. Gharai, Under Secretary (HR, Division), MHA were present in person.

4. The appellant submitted that no information has been provided to him in respect of point no. 3 of his RTI application by the respondent. The appellant further submitted that the CPIO, HR Division, MHA had not provided any information to him.

5. The respondent (IS-I) submitted that the appellant was informed vide letter dated 13.05.2015 that his RTI application in respect of point no 3 was transferred under Section 6(3) of the RTI Act vide letter dated 08.06.2015 to CPIO, Director, HR, Division, MHA and Under Secretary, IS-II Division, MHA to provide information to the appellant. The respondent further submitted that the IS-II, Division had vide letter dated 08.06.2015 informed the appellant that they are not concerned with the point no. 3 of the RTI application and no information relating to the same is available with the respondent.

6. The respondent (Deputy Secretary, HR, MHA) submitted that the appellant was informed vide letter dated 27.05.2015 that in terms of the provisions of the RTI Act, 2005, the CPIO is not supposed to create information; or to interpret information; or to solve problems raised by the appellant; or to furnish replies to situational queries; or to furnish clarification. The appellant was also informed that the information sought by him in his RTI application does not fall under the definition of 'Information' as per Section 2(f)

of the RTI Act. The respondent further submitted that the HR Division was created in 1993 and the matter pertains to 1975.

Decision:

7. The Commission, after hearing the submissions of both the parties and perusing the records, observes that the appellant is seeking information relating to the suspension of human rights during emergency. The respondent IS-I Division, MHA has submitted that the information should be available with the HR/IS-II Division, MHA. However, both the CPIOs have stated that no records relating to the suspension of human rights during emergency is available with the respective divisions. In view of this, the Commission directs the CPIO, HR, Division, MHA and CPIO, IS-II, Division, MHA to file an affidavit with the Commission deposing that information relating to the suspension of human rights during emergency is not available with the HR/IS-II, Division, MHA, within a period of four weeks from the date of receipt of a copy of this order. A copy of the affidavit shall also be provided to the appellant.

8. With the above observations, the appeal is disposed of.

9. Copy of the decision be provided free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(V.K. Sharma)
Designated Officer